

REMARKS

Claims 1-6, 8-14, 16-21 and 23-25 are currently pending in the application. Claims 7, 15 and 22 have been canceled and claims 1, 10 and 18 have been amended. Claims 24 and 25 have been added. Applicant requests reconsideration of the application in light of the following remarks.

Notice of Non-Compliant or Non-Responsive Amendment

Applicant in now way understands why the previous amendment dated November 19, 2007 was denied entry. However, in order to advance prosecution, Applicant has made a sincere effort to follow the Examiner's suggestions and has avoided the terms "a discharge hose of a recreational vehicle," "a sewer fitting" and "a refuse hole" in the present amendment.

Examiner Interview

The Examiner is thanked for the courteous interview extended on September 10, 2008 at which time the claims, in particular independent claim 1 was discussed. The Examiner indicated the language "a hose recess comprising a right wall, a left wall, an upper wall, and an opening on the front end of the container, the hose recess extending from the front end to the rear end of the container and configured to receive a discharge hose between the right wall, left wall, ~~and~~ upper wall, and a ground surface, the container adapted to hold down the discharge hose during draining," as recited in independent claim 1, overcomes both the anticipation and obviousness rejections based on Kihm. In addition, Kihm fails to disclose "feet integral with the hose recess," as recited in new dependent claims 24 and 25.

Rejections under 35 U.S.C. §102

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claims 1-7 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,068,163 to Kihm (hereinafter “Kihm”). Applicant respectfully traverses this rejection and requests reconsideration of the claims.

Kihm discloses a fuel dispensing apparatus that has a pickup tube 30 that is used to dispense fuel from inside of the container to outside of the container. The Examiner argues that this pickup tube may be a recess that can receive a discharge hose. The Examiner also states that Kihm teaches a hose recess that has openings on the front end (at 36) and the rear end (at 32). Kihm does not set forth every element in Claim 1 as it is currently amended. Particularly, claim 1 discloses, “a hose recess comprising a right wall, a left wall, an upper wall, and an opening on the front end of the container the hose recess extending from the front end to the rear end of the container”. Kihm does not show a hose recess that extends from its front wall 8 to its rear wall 10 of the container 2 (See Kihm col. 2, lines 41-64). Rather the pickup tube that the Examiner indicates is a hose recess is actually internal to the container and does not extend from the front wall to a rear wall of the container.

Additionally, since the Examiner equates the pickup tube 30 of Kihm to a hose recess, the pickup tube cannot retain a discharge hose between the upper wall, right wall, left wall and ground surface as recited in claim 1. The pickup tube 30 is utilized to dispense fuel from within the container 2 out of the container 2 (See Kihm col. 3, lines 5-31). The pickup

tube would not function properly if it were not internal to the container and further does not show or teach the retaining of a discharge hose between three walls and a ground surface. This argument appears to be overreaching and therefore does not teach the claim limitation of “configured to receive a discharge hose between the right wall, left wall, upper wall, and a **ground surface**,” as recited in independent claim 1. Accordingly, Kihm does not disclose every element of claim 1 and claim 1 is therefore allowable.

Claims 2-6 are also allowable for, among other reasons, depending from an allowable independent claim. Applicant respectfully requests that the anticipation rejection of claims 2-6 be withdrawn. In addition, new claim 24, dependent on claim 1, has been added which recites “feet coupled to the bottom portion of the container and integral with the hose recess.” Claim 24 is also allowable for, among other reasons, depending from an allowable independent claim. Note, claim 7 has been canceled.

Rejections under 35 U.S.C. §103

To establish a *prima facie* case of obviousness under 35 U.S.C. 103, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the cited prior art reference must teach or suggest all of the claim limitations. Furthermore, the suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based upon the Applicant’s disclosure. A failure to meet any one of these criteria is a failure to establish a *prima facie* case of obviousness. MPEP 2143.

Claims

Claims 8-23 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kihm, in light of U.S. Patent No. 4,416,396 to Ward (hereinafter “Ward”). Applicant respectfully traverses this rejection and requests reconsideration of the claims.

Claims 8-9 are also allowable for, among other reasons, depending from allowable independent claim 1. Applicant respectfully requests that the obviousness rejection of claims 8-9 be withdrawn.

Kihm discloses a fuel dispensing apparatus that has a pickup tube 30 that is used to dispense fuel from inside of the container to outside of the container. The Examiner argues that this pickup tube may be a recess that can receive a discharge hose. The Examiner also states that Kihm teaches a hose recess that has openings on the front end (at 36) and the rear end (at 32). Kihm does not set forth every element in claims 10 and 18 as they are currently amended. Particularly, claims 10 and 18 each disclose, “a hose recess comprising a right wall, a left wall, an upper wall, a rear wall, and an opening on the front end of the container, the hose recess extending from the front end up to the rear end of the container to form the rear wall”. Kihm does not show a hose recess that extends from its front wall 8 up to its rear wall 10 of the container 2 (See Kihm col. 2, lines 41-64). Rather the pickup tube that the Examiner indicates is a hose recess is actually internal to the container and does not extend from the front wall to a rear wall of the container.

Additionally, since the Examiner equates the pickup tube 30 of Kihm to a hose recess, the pickup tube as disclosed in Kihm cannot “receive a discharge hose and a sewer fitting between the right wall, left wall, upper wall, rear wall, and a ground surface the bottom portion of the container rests on for holding down of the discharge hose during draining”, as required by claims 10 and 18. The pickup tube 30 is utilized to dispense fuel from within

the container 2 out of the container 2 (See Kihm col. 3, lines 5-31). The pickup tube would not function properly if it were not internal to the container and further does not show or teach the retaining of a discharge hose between three walls and a ground surface. This argument appears to be overreaching and therefore does not teach the claim limitation of “configured to receive a discharge hose between the right wall, left wall, and upper wall, and a **ground surface**,” as recited in independent claims 10 and 18. Since Kihm does not disclose a hose recess as recited in claims 10 and 18, there is no motivation to combine Kihm with the feet of Ward.

Additionally, independent claims 10 and 18 recite a hose recess “configured to receive a discharge hose and a sewer fitting”. Neither Kihm nor Ward discloses a hose recess configured to receive a discharge hose and sewer fitting. Note, the term “sewer fitting” is found in both claims 10 and 18, as originally filed.

Accordingly, Kihm in light of Ward does not disclose every element of claims 10 and 18 and they are therefore allowable. Applicant respectfully requests that the obviousness rejection of claims 10 and 18 be withdrawn.

Claims 11-14, 16, 17, 19-21 and 23 are also allowable for, among other reasons, depending from allowable independent claims 10 and 18, respectively. Applicant respectfully requests that the obviousness rejection of claims 11-14, 16, 17, 19-21 and 23 be withdrawn.

In addition, new claim 25, dependent on claim 10, has been added which recites “wherein the feet are integral with the hose recess.” Claim 25 is also allowable for, among other reasons, depending from allowable independent claim 10. Note, claims 15 and 22 have been canceled.

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Amdt. Dated: September 11, 2008
Reply of Office action of June 11, 2008

Docket No. KOCH-10131

Applicant respectfully requests that the obviousness rejections of claims 8-14, 16-21 and 23 be withdrawn.

Regarding Doctrine of Equivalents

Applicant hereby declares that any amendments herein that are not specifically made for the purpose of patentability are made for other purposes, such as clarification, and that no such changes shall be construed as limiting the scope of the claims or the application of the Doctrine of Equivalents.

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CONCLUSION

It is requested that a two-month extension of time be granted for the filing of this response, and the appropriate extension filing fee of \$230 be charged to credit card (fee information attached).

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. If any fees, including extension of time fees or additional claims fees, are due as a result of this response, please charge Deposit Account No. 19-0513. This authorization is intended to act as a constructive petition for an extension of time, should an extension of time be needed as a result of this response. The Examiner is invited to telephone the undersigned if this would in any way advance the prosecution of this case.

Respectfully submitted,

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